
New Hampshire
Department of Environmental Services
2006 ANNUAL REPORT
Fiscal Year Ended June 30, 2006

Pursuant to RSA 20:7



October 2006



Cover photo: "The Presidential Range in Autumn, Mt. Martha in Carroll"
Courtesy the New Hampshire Division of Travel & Tourism Development; photographer Dale Lary



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Introduction



I am pleased to release the department's fiscal year 2006 Annual Report. This report details the financial and staff resources necessary for the Department of Environmental Services to carry out its mission of *sustaining a high quality of life for all by protecting and restoring the environment and public health in New Hampshire*.

This report also highlights a number of significant accomplishments of the past year in such areas as outreach and assistance; environmental monitoring; innovative programs, initiatives, and voluntary partnerships to help improve the quality of New Hampshire's air, water, and communities; timely and effective clean-up efforts; and the use of state-of-the-art information management tools to improve the delivery of services to our many constituents. Finally, the report provides a summary of the legislation that was relevant to the department's mission during the last legislative session.

It is clear that these accomplishments would not have been possible were it not for the combined and effective efforts of many state and federal agencies, proactive organizations and businesses, and dedicated volunteers working in partnership with DES. It is through such collaboration that New Hampshire has maintained such a high quality of life.

I hope that you find the 2006 Department of Environmental Services Annual Report informative, and encourage you to visit our website at www.des.nh.gov to learn more about the department's many programs and initiatives.

~ Michael P. Nolin, *Commissioner*



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Mission Statement, Guiding Principles and Goals

MISSION

The mission of the Department of Environmental Services is to help sustain a high quality of life for all citizens by protecting and restoring the environment and public health in New Hampshire.

DES GUIDING PRINCIPLES

The Department of Environmental Services will carry out its mission in partnership with the public, businesses, government, environmental community, and many other organizations by:

- * Promoting mutual respect and effective, straightforward communications, within and outside of the agency.
- * Providing timely and consistent responses to all customers.
- * Encouraging meaningful opportunities for public participation in meeting its responsibilities.
- * Integrating environmental quality, public health and safety, and economic vitality, and considering the concerns and aspirations of all citizens, while pursuing its responsibilities under the law.
- * Striving for high levels of effectiveness in all operations based on a commitment to continuous improvement and an openness to innovative approaches.
- * Facilitating scientifically and technically sound, cost effective, and environmentally appropriate solutions.
- * Leading the state government's environmental and sustainability initiatives.
- * Considering the long-term, cumulative, and cross-media effects of its policies, programs, and decisions.
- * Fostering environmental awareness and stewardship through education, outreach, and assistance.
- * Affording fair and equitable treatment of all New Hampshire citizens in the implementation of federal and state environmental laws, rules, programs, and policies, and in the management of the agency.
- * Maintaining a work environment that attracts and retains the most dedicated and talented staff.
- * Minimizing environmental and human health risks to the greatest extent possible, especially for our most vulnerable populations.

DES GOALS

1. Clean Air

The air we breathe in New Hampshire is safe and healthy for all citizens, including those most vulnerable, and our ecosystems are free from the adverse impacts of air pollution.

2. Clean Water

All of New Hampshire's lakes and ponds, rivers and streams, coastal waters, groundwater, and wetlands are clean and support healthy ecosystems, provide habitats for a diversity of plant and animal life, and support appropriate uses.

3. Safe Drinking Water

All drinking water in New Hampshire will always be safe, available and conservatively used.

4. Proper Waste Management & Effective Site Remediation

Promote responsible waste management and ensure wastes/regulated materials are properly handled and disposed. Conduct prompt remediation to restore contaminated sites to productive use while protecting the environment and public health.

5. Protection of Natural Habitat

The sustainable development of New Hampshire's lands and natural resources is promoted throughout the state while protecting the diverse wildlife habitat, and unique features that make New Hampshire an attractive place to live, work, and visit.

6. Dam Safety and Water Management

The state's surface and groundwater resources are managed and regulated for the protection, enhancement and restoration of environmental quality and public safety to support and balance social and ecological water needs.

7. Effective Management and Leadership

DES sets and achieves the highest standards for effective internal management, fiscal responsibility, and leadership on environmental issues.

8. Pollution Prevention and Sustainability

Encourage best efforts to prevent pollution before turning to recycling, treatment and/or disposal of the materials causing pollution. Eliminate or reduce the toxicity and absolute volumes of waste materials. Eliminate accidental pollutant releases to the environment. Conserve materials, energy, and water in order to move toward a sustainable society.

9. Public Education, Outreach and Partnerships

DES provides effective public education, outreach, and partnership activities.

10. Compliance Assurance

In order to foster full compliance with the laws it administers, DES provides education and outreach to the public, provides assistance to the regulated community, monitors compliance on an on-going basis, and maintains a fair and effective enforcement process.

11. Information Management

Information is collected, managed, analyzed, and disseminated effectively and efficiently to support well informed, timely and cost-effective environmental decision-making.



Update on Compliance and Rulemaking

DES rules reorganized

by Gretchen Hamel, Administrator, DES Legal Unit

In 2005, DES was notified that the subtitle designations for its rules did not comply with the system for rule numbering established by the Office of Legislative Services, Division of Administrative Rules (OLS). (The subtitle designation is the alphabetical prefix for the rules, such as Env-A, Env-Ws, etc.). Specifically, DES had some subtitles that designated programs, such as Wt for Wetlands rules, and some subtitles that designated organizational structure, such as Env-Wm for rules implemented by the DES Waste Management Division. OLS requirements allow for subtitles that designate either programs or organizational structure, but not both.

DES worked with OLS to develop a plan to redesignate its rules so that all of the subtitles would reflect programs, and to reorganize those rules that needed new subtitles. Under the plan that is now being implemented, the only change to rules in Env-A and Env-Wr is that the subtitles now denote programs rather than organizational structure (air-related programs and dam-related programs, respectively). Also, wetlands rules have been redesignated as Env-Wt, i.e., with the “Env” prefix added, but otherwise did not change.

The rules in subtitle Env-Wm are being split into three new subtitles: Env-Hw for hazardous waste programs, Env-Sw for solid waste programs, and Env-Or for oil and remediation programs. The conversion of the solid waste rules to Env-Sw was mostly completed in the fall of 2005 when the rules were readopted. The remaining chapter (Env-Wm 3900 relative to asbestos disposal sites) will be redesignated editorially in 2007 as Env-Sw 2100. Three chapters in Env-Or are expected to be in rulemaking later this year for adoption in early

2007: Env-Or 600 for contaminated site management (rules currently in Env-Wm 1600 and Env-Wm 1403), Env-Or 700 for groundwater release detection permits (rules currently in Env-Wm 1403), and Env-Or 800 for the brownfields program under RSA 147-F (new rules).

The rules in subtitle Env-Ws are being split into two new subtitles: Env-Dw for drinking water programs (mostly what is currently in Env-Ws 300) and Env-Wq for water quality and quantity programs (mostly what is currently in Env-Ws 400 et seq.). As part of the redesignation of the drinking water program rules, the numerical order of the rules will be changed so as to group related requirements and present a more logical sequence of rules. Some rules that will be redesignated into Env-Wq are being re-ordered as well, but most of the chapter numbers will remain the same. For example, Env-Ws 415 relating to terrain alteration is proposed to become Env-Wq 1500, but Env-Ws 1000 relating to subdivisions and septic systems will simply become Env-Wq 1000. Several chapters already have been redesignated as part of being readopted in 2005-2006; these include Env-Wq 700 relative to wastewater treatment facility design and construction standards, Env-Wq 1600 relative to septage management, and Env-Wq 1800 relative to rivers management and protection.

The rules in Env-C that relate to specific programs, such as the wastewater and drinking water State Revolving Fund rules, will be moved to the new subtitles for those programs: Env-Dw 1100 for the drinking water SRF (in progress) and Env-Wq 500 for the wastewater SRF. The rules in Env-C that apply across programs, such as procedural rules, laboratory accreditation, and administrative fines, will remain in that subtitle.

The process of implementing the proposal is expected to take another two years or so. Rules that are up for readoption in this time frame will be redesignated as part of the rulemaking, and the remainder will be redesignated editorially. DES has posted a cross-reference chart on its web site's Proposed and Recently Adopted Rules page to assist rule users to find the new designations for rules formerly in Env-Wm and Env-Ws and for those rules moved from Env-C.

Questions regarding the redesignation plan or process should be directed to Gretchen Hamel at ghamel@des.state.nh.us.

DES adopts portable gas can rules

In 2005, DES adopted rules (Env-A 4000) that require the sale of new portable fuel containers and spouts that reduce gasoline spillage and minimize the release of smog-forming volatile organic compounds.

In the past, gasoline containers made of plastic or metal were designed to accommodate quick and easy refueling and storage of gasoline. Unfortunately, gasoline fumes escape from these cans into the air when fuel is being dispensed. Vapors also escape through secondary vent holes in the cans or inadequately capped spouts, and can even permeate through the plastic walls of the container. Sometimes gasoline is spilled onto equipment or on the ground during refueling. If a large enough spill occurs, chemicals contained in the gasoline, such as benzene, toluene or MtBE, can contaminate drinking water wells or public water supplies.

New gas cans are now available that eliminate both the release of air pollutants and the potential for spillage during their use and storage. These containers have been designed with special features to meet air quality standards adopted by many Mid-Atlantic and Northeast states, including New Hampshire. According to the state's new rules, beginning March 1, 2007, retailers will be required to only sell those containers that comply with the new air quality standards.

For more information on gasoline containers and the new rules, contact Mike Fitzgerald, DES Air Re-

sources Division, at 800-498-6868, (603) 271-6390 or mfitzgerald@des.state.nh.us.

Amalgam rule reduces mercury

A basic pollution prevention strategy is to remove the hazardous components from a material before it travels on to the next step in the process. In June 2005, DES adopted Env-Ws 905, Standards for Management of Mercury-Containing Amalgam, to do just that by reducing the amount of toxic mercury in wastewater that must be processed by a wastewater treatment plant.

Amalgam is composed of 50 percent mercury and the particles generated from dental practices represent the single largest source of mercury in wastewater. Since neither treatment plants nor private septic systems are designed to remove mercury from wastewater, that mercury can end up in sludge or pass into the surface water or ground water. Env-Ws 905 required all dental facilities to install equipment, by October 1, 2005, to trap particles of mercury-containing amalgam created when dentists apply or drill amalgam fillings.

Under this new rule, dental practitioners had to install an amalgam separator meeting ISO 11143 standards and either recycle or manage the trapped amalgam as a hazardous waste. Recycling amalgam is inexpensive and exempts the practice from most N.H. Hazardous Waste Rules requirements. Dentists also provided DES a signed certification providing the model name, location and operating information for their particular separator. There is an exemption for specialists who don't generate amalgam waste, as well as a waiver procedure to allow for special circumstances, such as using alternate, equivalent equipment.

There are numerous studies showing high levels of dissolved mercury are found in dental wastewater. Nationally, over six tons of mercury are discharged from dental facilities annually and New Hampshire's contribution is estimated to be approximately 54 pounds. Amalgam separators trap over 95 percent of the solid amalgam particles. In states where amalgam separators were installed, dissolved mercury levels in wastewater dropped as much as 68 percent.

Following adoption of the rules, DES surveyed 1,200 New Hampshire licensed dentists. By November 1, 2005, about 700 dentists had responded to DES. Of those responding, 71 percent have installed amalgam separators, 17 percent are exempt or licensed but not working in New Hampshire, and 12 percent have requested a waiver or exemption. Over the coming months, DES will make determinations for waiver or exemption requests and perform spot inspections to ensure dentists have accurately completed their certifications indicating compliance with the law.

State adopts rules for beach areas

In February 2006, DES announced the adoption of revised rules pertaining to public bathing places, which encompass designated beaches and flow through bathing places, as well as pools and spas. The new rules address six main areas of beach management and are targeted at protecting public health and safety while recreating at New Hampshire's beaches. These areas include: beach construction, supervision, safety, emergency rescue equipment, toilets, and trash receptacles.

Media coverage inaccurately portrayed these rules as requiring all beaches to install and provide toilet facilities, provide emergency rescue equipment and emergency communication devices such as telephones or radios.

Designated Beach Area rules state that toilet facilities be installed at the owner's discretion, but not required. If toilet facilities are present they should meet the requirements specified in the rules, including safeguards to prevent portable type toilets from being tipped over and keeping toilet discharges from reaching the beach. In the event that toilets are available, these toilets must be in walking distance from the public beach.

The rules specify that if rescue equipment is not provided, a sign be posted to notify the public that the rescue equipment is not available. The rules also state that emergency communication devices be located within 200 feet of the beach, and if this communication device is not present, a sign be posted to notify the public of the location of the nearest communication device. Although emer-

gency rescue equipment and communication devices are recommended for public safety, DES feels that the public should be notified by signage in cases where rescue equipment is not provided and that the public should be alerted to the nearest communication devices in case of an emergency. All this information can be communicated to beach visitors by posting a sign that clearly states that there is no lifeguard on duty and the location of the nearest phone.

DES provides the inspection, permitting and enforcement capability that serves to protect the health and safety of those who visit our Designated Beach Areas. The public beach inspection program provides a public service through beach monitoring and facility inspections to help ensure the public enjoy a safe and healthy recreational experience.

In the interest of public health and safety, DES is cooperating with beach owners to ensure that the rules are interpreted correctly and that beaches are able to comply with these minor adjustments. For more information about the DES Beach Program or the rules pertaining to public bathing places, contact Jody Connor at (603) 271-3414.

No Discharge Status declared for coastal New Hampshire

On September 27, 2005 New Hampshire coastal waters were designated as a No Discharge Area for boat sewage. Federal law allows for over-board discharge of boat sewage that is first treated by an on-board marine sanitation device (MSD), but prohibits the discharge of untreated boat sewage. This waste must be contained in a holding tank to be later removed at a pumpout or dump station. Pumpout stations service boats with fixed toilets, while dump stations are for portable toilets. New Hampshire's coastal waters are currently serviced by five stationary pumpout stations located at marinas and one mobile pumpout boat that can travel to where the service is required.

The Clean Water Act allows states to prohibit all boat sewage discharges by creating a No Discharge Area if the state can provide evidence that the waters require greater protection than the law provides. DES made a proactive decision to move for-

ward in designating its coastal waters to protect the numerous shellfish beds, beaches, and other recreational opportunities that are available.

Boat sewage discharges are highly concentrated with bacteria and nutrients, and those boats with MSDs may also contain toxic disinfectants such as formaldehyde. All of these pollutants can contribute to unhealthy water for shellfish, other fauna and flora, and unsafe conditions for swimming and other recreation. By prohibiting the discharge of boat sewage, DES is helping to protect the state's sensitive natural resources.

All inland waters of the state were designated as No Discharge Areas in 1975. There are numerous pumpout and dump stations available on the some of largest lakes in the state, including Lake Winnepesaukee, Lake Winnisquam, Squam Lake and Lake Sunapee.

For more on the Clean Vessel Act, please go to www.des.nh.gov/wmb/cva.

Governor signs major legislation aimed at reducing mercury emissions in New Hampshire

Joined by lawmakers, members of the environmental community and business leaders, Gov. John Lynch signed major legislation in May 2006 aimed at significantly reducing mercury emissions in New Hampshire.

The legislation was the result of a joint effort between state officials, legislators, members of the environmental community and business.

"Mercury poisons our waterways and jeopardizes public health. This legislation is a significant step forward in reducing one of the biggest forms of mercury pollution, emissions from coal-fired power plants. With this legislation, New Hampshire is taking a significant step forward in protecting our health, cleaning up our waterways, and in protecting our environment," Gov. Lynch said.

The bipartisan legislation requires at least 80 percent control of mercury emissions from New Hampshire's coal-fired power plants by 2013, and includes incentives for achieving earlier and greater reductions. It also ensures that higher re-

ductions, if achieved on a consistent basis, will be locked in permanently through the plant operating permits issued by DES.

"With this legislation, we can achieve significant reductions in mercury emissions within a reasonable time period and with a minimum impact on ratepayers," Gov. Lynch said.

The legislation, HB 1673, also includes the added environmental benefits of reduced local sulfur and particulate emissions.

The legislation was sponsored by Representatives Larry Ross, Lee Slocum, Naida Kaen, Jay Phinizy and Roy Maxfield, and Senators Dick Green, Carl Johnson, Peter Burling, Bob Odell and Maggie Hassan.

State participates in Regional Greenhouse Gas Initiative

Since 2003, officials from DES and the Public Utilities Commission have represented New Hampshire in the Northeast Regional Greenhouse Gas Initiative (RGGI), widely viewed as one of the most significant climate change initiatives underway in the United States. In December 2005, Gov. Lynch signed the draft Memorandum of Understanding (MOU) agreeing to participate in the RGGI process. By signing the MOU, New Hampshire would commit to bringing this framework before the Legislature and proposing legislation in 2007 to implement the RGGI program beginning in 2009. An on-going stakeholder process will continue to allow affected and interested parties the opportunity to evaluate the impacts of RGGI and assess the best way to implement this program in New Hampshire.

RGGI was started when New York Governor George E. Pataki invited governors of the Northeastern and mid-Atlantic states to collaborate on the design of a program to reduce carbon dioxide emissions from power plants, which account for about 30 percent of the total greenhouse gas emissions in the region. By September 2003, New Hampshire had joined the six New England states, New York, New Jersey and Delaware in this regional effort to design a model program to curb emissions that contribute to global climate change.

RGGI proposes using a cap-and-trade approach that establishes a mandatory emissions cap on the electric generating sector, coupled with a market-based trading program to achieve the lowest possible compliance costs. RGGI also includes important components to achieve reductions through end-use energy efficiency, renewable energy strategies, and emission reduction projects outside the power sector.

The design of RGGI, like any other cap-and-trade program, includes determining the emissions sources to be covered by the cap, establishing the total amount of emissions to be allowed from all of the sources (the “emissions cap”), setting aside 25 percent of the cap for strategic energy purposes, and issuing one allowance for each ton of emissions to covered sources, up to the remainder of the cap. Every regulated source is required to have enough allowances to cover its emissions. Sources that do not have enough allowances to cover their projected emissions can either reduce their own emissions or buy allowances on the market. Through market-driven emissions trading, only the most cost-effective reductions are implemented at the plants.

RGGI represents a historic step forward in meeting the challenge of climate change. It makes good energy policy because it will result in a more efficient electric generating sector. The RGGI carbon market will encourage renewable and other non-emitting electric generating technologies and ultimately, fuel diversity. RGGI is also good economic policy because it will improve the region’s energy independence by fostering efficiency and local renewable energy. Dollars not spent outside the region for energy are dollars that may be invested in the region’s economy.

For more information on RGGI, contact Joe Fontaine, DES Air Resources Division, at (603) 271-6794 or jfontaine@des.state.nh.us, or go to www.des.nh.gov/ard/climatechange/rggi.htm.

Transitioning from MtBE to ethanol

In January 2006, New Hampshire consumers were first introduced to gasoline containing 10 percent ethanol (E-10). The transition away from

MtBE occurred rapidly and all major distributors eliminated large scale use of MtBE by the end of May 2006. The transition occurred significantly before the New Hampshire statutory deadline to remove MtBE in gasoline by January 1, 2007. Most, if not all terminals located in the Boston area, now incorporate ethanol in their gasoline. Those terminals located in Portland, Maine, have elected to use non-oxygenated additives to obtain the octane needed. Based on data collected on gasoline composition after May 2006, other ethers and residual amounts of MtBE are still present in New Hampshire gasoline. ETBE, in particular is used in Europe and will probably remain in gasoline imported into the northeastern US from Europe. After January 1, 2007, New Hampshire law restricts ether content in gasoline to a maximum of 0.5 percent. Analysis of gasoline samples will be required to evaluate compliance with the new law.

Outside of Hillsboro, Merrimack, Rockingham or Strafford counties reformulated gasoline use is not required. As a result, gasoline outside of the four southern counties is much less likely to contain ethanol. Several major oil companies have stated that they will deliver only E-10 gas no matter where in the state the stations are located.

For more information on the transition to ethanol, please go to www.des.nh.gov/MtBEtrans.html.

State settles landfill pollution case with Waste Management

DES Commissioner Michael Nolin and Attorney General Kelly A. Ayotte announced in May 2006 that a state court had approved a \$1.75 million settlement with Waste Management of New Hampshire Inc. for alleged environmental violations at the Turnkey Landfill in Rochester.

The state’s lawsuit against Waste Management alleges violations of air pollution rules and permits starting in 2002, including failure to control landfill gases produced by decomposing solid waste at the landfill. Without admitting liability, Waste Management agreed in the settlement to exceed minimum environmental requirements for controlling and monitoring landfill gases. Among other improvements, the company has committed to installing

new flares that burn off the gases and adding air monitors around the landfill to confirm that landfill gases do not pose any threat to the health of local residents. The company has already invested significant resources since July 2004 to upgrade the landfill gas collection system at the landfill.

The \$1.75 million civil penalty must be paid over the next three years in the form of an immediate cash payment of \$350,000 to the state and payment of \$1.4 million to “supplemental environmental projects.”

The largest project is a proposed landfill gas-to-energy project being studied by the University of New Hampshire. Under the settlement, Waste Management will fund \$1.2 million of the capital costs required to pipe methane gas from the Turnkey Landfill to the UNH campus to fuel a new energy-saving cogeneration heating plant. The project will help to reduce long-term energy costs for

UNH. It is in the early stages and is currently under review by the UNH Board of Trustees.

In addition, the cities of Dover and Rochester will each receive \$100,000 for local projects to reduce air pollution, such as energy efficiency improvements and use of cleaner fuels. The cities’ proposed projects must be pre-approved by DES.

Commenting on the settlement, Commissioner Nolin said, “I am very pleased that, with Waste Management’s cooperation, local communities can count on enhanced environmental monitoring and odor control practices at the landfill. They can also expect significant funding for projects designed to reduce air pollution, increase energy efficiency and reduce dependence on costly fossil fuels.”

For further information, please contact Pam Monroe, DES Air Resources Division, at (603) 271-0882 or pmonroe@des.state.nh.us.



Summaries of NHDES-related Environmental Legislation Adopted in the 2006 New Hampshire Legislative Session

HB 1146 **Chapter 257** **Effective: June 9, 2006**

establishing a state energy policy commission.

- Establishes a commission to study the adequacy of electricity supplies to meet demand including consideration of various issues such as reliability, diversity of fuel supplies, renewable portfolio standards, energy efficiency as well as others.
- The Commissioner of DES or designee (Bob Scott) is assigned to the committee.
- The committee is required to submit an interim report of its findings and recommendations by December 1, 2006 and a final report by December 1, 2007.

HB 1228-FN **Chapter 98** **Effective: July 8, 2006**

relative to the sale or lease of state-owned real estate and relative to penalties under the real estate practice act.

- Requires state agencies to charge an administrative fee for costs incurred by the agency in preparing to sell or lease real property.

HB 1265 **Chapter 199** **Effective: May 31, 2006**

extending the final report date of the commission to study the relationship between public health and the environment.

- Extends the final report date of the commission to study the relationship between public health and the environment until November 1, 2007.
- A DES designee is assigned to the committee. The committee is required to submit a final report of its findings and recommendations by November 1, 2007.

HB 1307 **Chapter 100** **Effective: January 1, 2007**

relative to application requirements for motor vehicle recycling yard licenses.

- Requires an applicant applying for a yearly local license to operate a motor vehicle recycling/junk yard to certify to the local licensing authority that the facility is in compliance with DES best management practices for such facilities.

- Requires affected facilities to be in compliance with DES BMPs in order to obtain a license to operate and is expected to improve environmental procedures at presently non-complying facilities.
- Upon inquiry by the local authority, DES will have to provide information indicating the applicant's compliance status with respect to the appropriate DES BMPs. May require DES to perform an inspection and reply in writing to the local authority.

HB 1315

Chapter 306

I Sec 8 Effective: June 19, 2006;

Remainder Effective: August 18, 2006

relative to the definition and classification of dams, the acceptance of Jericho Lake dam and dike in Berlin, the F&G dept's acquisition of property rights to Big Brook Bog dam in Pittsburg, and the study of potential sources of funding for the repair and maintenance of dams by the state.

- Changes the names for classification of dams from letters to names based on the hazard potential of the dam.
- Exempts certain storm water detention dams from the definition of "dam."
- Authorizes the Dept. of Resources and Economic Development to accept the Jericho Lake dam and dike in Berlin.
- Authorizes the Fish and Game Dept. to acquire property rights to Big Brook Bog dam in Pittsburg.
- Requires the dam management review committee to study and report on the potential sources of funding for the repair and maintenance of dams by the state.

HB 1317

Chapter 144

Effective: May 22, 2006

relative to the control or eradication of exotic aquatic weeds and requiring a review by the department of agriculture, markets, and food, the DES, the fish and game department, and the DRED, evaluating the current permitting process for special permits for aquatic applications of pesticides to control or eradicate exotic aquatic weeds and making recommendations to improve the process.

- Changes certain criteria for the control of exotic aquatic weeds.
- Requires a report from DES, the Dept. of Agriculture, Markets and Food, the Fish and Game Dept. and the Dept. of Resources and Economic Development that evaluates the current permitting process for special permits for aquatic applications of pesticides to control or eradicate exotic aquatic weeds and makes recommendations to improve the process.
- The committee's report will include recommendations for rules change or legislation, or both.

HB 1343

Chapter 307

Effective: July 1, 2006

relative to the duties of the council on resources and development, and making bonded appropriations to the DES and the NH veterans' home.

- Requires the Council on Resources and Development to give advice, rather than approval, prior to the disposal of state-owned lands.

- Removes the binding effect of the council's recommendations relative to coordination of member agencies.
- Requires the council to provide the legislature and G&C with copies of the council's meeting minutes.
- Requires the NH Housing Finance Authority to obtain the approval of the long-range capital planning and utilization committee, with advice from CORD, and final approval by the G&C, prior to the transfer of lands under the surplus lands housing program.
- Makes an appropriation to DES for completing the e-permitting database from certain dedicated funds.

HB 1349 Chapter 102 Effective: July 8, 2006

relative to costs of personnel and rates for equipment use in hazardous waste incidents.

- Requires the commissioner of Safety to establish rates for equipment use, supplies, and costs of personnel that shall be the maximum amount that may be charged by any municipality, organization, or mutual aid district in response to hazardous waste incidents.
- Affects primarily municipalities; it does not affect DES.

**HB 1351 Chapter 145 Sect. 10 Effective: May 22, 2006
Remainder Effective: July 21, 2006**

relative to the rulemaking process.

- Adds new RSA 14:39-a to require bills to include a statement of intent when rulemaking authority is delegated; prohibits general rulemaking authority (legislation "shall specify the issues to be addressed by rules").
- Amends RSA 541-A:3-a, II to allow cross-reference table to be placed on last page of text of rules (separate page no longer required).
- Amends RSA 541-A:7 to allow rules to be written to be understandable by "those persons who engage in the activities that are regulated by the rules, which may include technical language as necessary."
- Amends RSA 541-A:13, V(b) to allow JLCAR to send copies of preliminary objections on rules proposed to implement a new or newly amended state statute to the relevant policy committee(s) for input re: intent, *etc.*
- Amends RSA 541-A:13, VII(c) and (d) to impose a deadline on when a joint resolution has to be introduced for legislative action; if the deadline is not met, the agency can adopt the rules that were subject to the joint resolution. (Eliminates "pocket veto" of rules.)
- Amends RSA 541-A:19, II (intro) to eliminate the requirement to obtain a Fiscal Impact Statement for interim rules that are being proposed to extend existing rules while regular rules are being adopted or to otherwise minimize the gap between expiration and readoption.
- Amends RSA 541-A:19, II(a) and (b) and III to eliminate the requirement to file a notice of proposed interim rule with the Legislative Budget Assistant.

- Establishes a new committee to “study how to improve the processes of the Joint Legislative Committee on Administrative Rules.”
- Repeals RSA 541-A:16, I(b)(1), which required agencies to adopt as rules “a description of all forms and instructions used by the agency.”
- Legislation should improve the rulemaking process for all administrative agencies, including DES. There are no requirements for DES action in the bill (and so no deadlines).

HB 1356 Chapter 83 Effective: July 4, 2006

relative to on-board diagnostic system inspections.

- Requires safety inspection stations to conspicuously post on the outside of the building a sign showing the inspection fee charged and the additional fee charged for OBD II testing.
- Specifically disallows inspection stations from including the cost of OBD II testing or reporting in the inspection fee charged for a vehicle not subject to the OBD II requirements.
- This legislation does not impact DES.

HB 1373 Chapter 261 Effective: June 9, 2006

establishing a commission to study ways to encourage the proper recycling and disposal of grease trap wastes and to determine ways to develop additional disposal capacity.

- Establishes a commission to study ways to encourage the proper recycling and disposal of grease trap wastes and to determine ways to develop additional disposal capacity.
- DES shall have two representatives on the commission. Representatives will also come from the House, Senate, NH Association of Septage Haulers, NH Lodging and Restaurant Association, NHWPCA, and UNH (biodiesel research).
- The commission shall study the ability of DES to assist municipalities in regard to rules, regulations, penalties, and BMPs for grease trap sizes, cleaning cycles, standards, and pumping.
- The commission shall report its findings on or before November 1, 2007.

HB 1407-FN Chapter 281 Effective: June 15, 2006

relative to funding exotic aquatic weeds eradication and control.

- Makes permanent the milfoil and other exotic aquatic plants prevention program and the increase in the boat registration fee used to fund the lakes restoration and preservation fund for exotic aquatic weeds prevention and eradication.

HB 1418-FN Chapter 58 Effective: July 1, 2006

relative to road toll refunds.

- Authorizes the payment of road toll refunds to the navigation safety fund or the lake restoration and preservation fund to be allocated to the control and prevention of exotic aquatic species, if requested by the applicant.

HB 1429**Chapter 282****I Sec 1,2 Effective: September 13, 2006****II Remainder Effective: June 15, 2006**

relative to municipal exemptions for hazardous waste cleanup liability and preventing the exemption of privately-owned landfills and ancillary facilities from property taxes.

- Exempts municipalities and their employees from liability under RSA 147-A and 147-B for releases of household hazardous waste during the lawful transportation of the waste to a regional collection facility. DES assumes the responsibility for containment, cleanup, restoration and study resulting from such a release with costs resulting from those activities charged to the hazardous waste cleanup fund established under RSA 147-B:3.
- Prohibits privately owned landfills from obtaining a municipal property tax exemption related to installation of pollution control devices or ancillary facilities located at such landfills.
- When household hazardous waste is released into the environment during the lawful transport by a municipal employee to a collection facility, DES is obligated to use the hazardous waste cleanup fund to undertake environmental sampling, clean up the release and restore affected property. This legislation is intended to provide incentive to municipalities to participate in the DES HHW program by limiting the liability, insurance for which municipalities cannot secure or afford.

HB 1433**Chapter 186****Effective: June 30, 2006**

establishing a moratorium on the incineration of construction and demolition waste.

- Prevents the incineration of construction and demolition debris in New Hampshire through December 31, 2007, with minor exceptions for incidental incineration by municipal combustors in operation as of January 1, 2005.

HB 1455-FN**Chapter 171****Effective: July 1, 2006**

relative to the disposal of video display devices.

- Adds the definition of video display devices to RSA 149-M:4 and bans the disposal of such devices in landfills and incinerators after July 1, 2007.
- DES is required to monitor and participate in any regional initiatives regarding the financing and disposal of electronic wastes and shall report the results of such efforts to the House Environment and Agriculture Committee and the Senate Environment and Wildlife Committee by November 1, 2006.

HB 1464-FN**Chapter 284****Effective: July 1, 2006**

relative to mosquito control, establishing a mosquito control fund, making a appropriation therefor, and relative to a public health response to arbovirus.

- Establishes a mosquito control fund.
- Establishes a two-year task force, on which DES shall have a representative, for the purpose of facilitating a coordinated local, regional, and state response to arboviruses in the state.

- The task force shall establish a mechanism to work with landowners for determining when a pond, marsh land, or wetland on private property is found to be creating a standing water hazard and a method to permit local communities to receive assistance from DES and the Fish and Game Dept. to determine if the standing water hazard can be removed.

HB 1491 Chapter 309 Effective: June 19, 2006

extending certain deadlines relative to the Great Bay Estuary Commission and the Estuary Alliance for Sewage Treatment and establishing a commission to study the publicly owned treatment plants needs of NH and state laboratory water tests and fees.

- Extends the reporting deadline of the Great Bay Estuary Commission and extends the first meeting deadline of the Estuary Alliance for Sewage Treatment.
- Establishes a commission to study the publicly owned treatment plants needs of NH and state laboratory water tests and fees for such tests collected by DES.
- The commission shall report its findings on or before November 30, 2007.

HB 1579 Chapter 62 Effective: June 23, 2006

relative to membership of the air resources council.

- Adjusts the qualification requirements for what traditionally has been a seat on the Air Resources Council filled by a licensed practicing physician; the position now allows for a licensed practicing physician or other health care professional possessing expertise in the field of public health and the health-related impacts of air pollution.
- This legislation does not impact DES.

HB 1584 Chapter 87 Effective: July 4, 2006

relative to cemetery setbacks and septic systems.

- Requires DES to include known burial sites or cemeteries in the information to be included on plans for sewage disposal systems.
- Prohibits DES from approving a plan that does not meet the requirements for setbacks from cemeteries and burial sites.

HB 1609 Chapter 63 Effective: April 24, 2006

requiring a pilot project to estimate future water needs and availability.

- Requires DES to conduct a pilot project to devise methods of estimating future water needs and availability for a 10-year planning period within a defined geopolitical area of the Seacoast. The project shall include an analysis of all current water withdrawals, estimated available surface and groundwater, and estimates of future water needs of municipal water systems, residential, agricultural, commercial, and industrial water users with the study area.

establishing penalties for meth manufacturing and possession of substances with intent to manufacture meth.

- Establishes penalties for methamphetamine manufacturing and possession of substances with intent to manufacture meth.
- DES or any licensed environmental or hazardous substances removal specialist shall be responsible for determining that any property on which meth production has occurred, meets remediation cleanup standards established pursuant to rules adopted by DES under RSA 541-A. Prior to the establishment of rules, the determination shall be based on the best scientific methods available. The determination that the property meets remediation cleanup standards shall be public information available upon request from DES.
 - A court may require a person convicted of manufacturing or attempting to manufacture methamphetamine, where the response to the crime involved an emergency response or a hazardous substance cleanup operation, to pay restitution to all public entities, or private entities under contract to a public entity, that participated in the response or the cleanup. The restitution ordered shall cover the reasonable costs of the entities' participation in the response and the reasonable costs of the site cleanup.
 - In addition to the restitution authorized in above paragraph, a court may require a person convicted of manufacturing or attempting to manufacture methamphetamine to pay restitution to a property owner who incurred removal or remediation costs as a result of the crime.

relative to the reduction of mercury emissions.

- Provides for an 80 percent reduction of mercury emissions from coal-burning power plants by requiring the installation of scrubber technology no later than July 1, 2013.
- Provides economic incentives for earlier installation and greater reductions in emissions.
- Expected to have a significant environmental impact in that mercury emissions from coal-burning power plants will be reduced by at least 80 percent.
- DES will be required to review applications for new or modified air operating permits from subject facilities as they are submitted.
- DES will be required to inspect monitoring and testing activities to assure target reductions are achieved.

establishing a NH healthy tidal waters and shellfish protection program and making an appropriation therefor.

- Establishes a New Hampshire healthy tidal waters and shellfish protection program and fund within DES, and makes an appropriation to fund the program.
- Replaces federal funds received in past years with state funds in order to keep the existing program fully operational.

HB 1758

Chapter 294

I Sec 5-9 Effective: April 1, 2006

II Remainder Effective: August 14, 2006

classifying bio-oil, bio synthetic gas, and biodiesel as a renewable energy sources and relative to taxation of renewable generation facilities.

- Specifies that bio-oil, bio synthetic gas, and biodiesel are renewable energy sources for certain purposes.
- Not expected to have a significant environmental impact initially, however by identifying biodiesel as a renewable energy source, there could be an increase in use of biodiesel in New Hampshire, which could reduce certain emissions from mobile sources.
- Does not impact DES directly, however, mobile sources staff is usually involved in initiatives in New Hampshire that involve renewable fuels.

SB 140

Chapter 313

Effective: August 18, 2006

relative to the acceptance of in-lieu payments for the restoration or creation of wetlands and preservation of upland areas adjacent to wetland areas.

- Allows DES to accept monetary payments in lieu of other forms of compensatory mitigation for wetlands for certain small projects.
- Establishes a mitigation fund for the payments.
- Establishes a committee, on which the commissioner of DES or designee shall sit, to select projects that will compensate for the loss of wetlands and which may be funded from the mitigation fund.

SB 250

Chapter 314

Effective: January 1, 2007

relative to lead paint poisoning prevention.

- Clarifies enforcement procedures regarding orders of lead hazard reductions.
- DES has been given discretion relative to extending the action deadline for lead hazard reduction of an occupied dwelling or dwelling unit.

SB 255

Chapter 121

Effective: May 15, 2006

establishing a committee to study the funding necessary to operate the hazardous materials program in NH.

- Establishes a committee consisting of two members each from the House and Senate to study the funding necessary to operate the hazardous materials program in New Hampshire, including incident response costs and costs of the Department of Safety's hazardous materials coordinator and the training of hazardous materials response teams.
- While this legislation does not directly affect DES, DES responds to petroleum and hazardous materials incidents along roadways and other areas and may arrange for DES contractors to mitigate the releases. Although the language of this bill suggests it is aimed at funding the DOS incident response program, it is possible that legislation arising from

this committee may also help support the DES response team responding to petroleum or hazardous waste incidents in certain locations.

SB 282 Chapter 254 Effective: August 4, 2006

relative to removal of abandoned vehicles.

- Modifies procedures and requirements relating to vehicles submerged in surface waters of the state and adds petroleum containers to the submerged vehicle statute, which requires DES to investigate any possible contamination and ensure the safe removal of the vehicle or container from the body of water involved.

SB 341 Chapter 222 Effective: June 1, 2006

relative to the applicability of OBD II testing requirements.

- Extends the waiver period for repairs of vehicles found to fail OBD II testing as part of the safety inspection.
- The environmental impact will be that emissions reduction that would have been realized as a result of OBD II inspection failures will be delayed until at least July 1, 2007.
- Does not impact DES specifically.

SB 371-FN Chapter 298 Effective: June 15, 2006

relative to the continuation of certain wetlands fees.

- Extends the current fee for an excavating and dredging permit until July 1, 2010.
- Requires the DES Wetlands Bureau to make a report on the permitting process available to the legislature. The report shall include the number of applications received, associated fees, the number of applications waiting for review, and the average number of days required to issue permits for minimum impact, minor impact, major impact and shoreline structure permits.

SB 386 Chapter 322 Effective: August 21, 2006

relative to large groundwater withdrawals.

- Adds a definition of "large groundwater withdrawal."
- Adds administration of the public trust interests in groundwater to the duties of DES.
- Adds an appeal to the superior court to the appeal process for large groundwater withdrawal permits.
- Enables any municipality from which groundwater will be withdrawn or diminished to request a determination from DES that the public trust is not being violated.
- Creates an intervenor status for municipalities impacted by a large groundwater withdrawal.

SB 387

Chapter 159

Effective: July 21, 2006

relative to energy efficiency loans and guarantees by the business finance authority.

- Establishes an energy conservation loan program to encourage small businesses and agricultural entities to improve energy efficiency, particularly through the adoption of conservation and cogeneration initiatives.
- No significant environmental impacts other than some reductions in air pollutant emission associated with reduced energy demand.
- This legislation does not impact DES specifically.

SB 388

Chapter 326

Effective: August 25, 2006

relative to farm composting and pesticides.

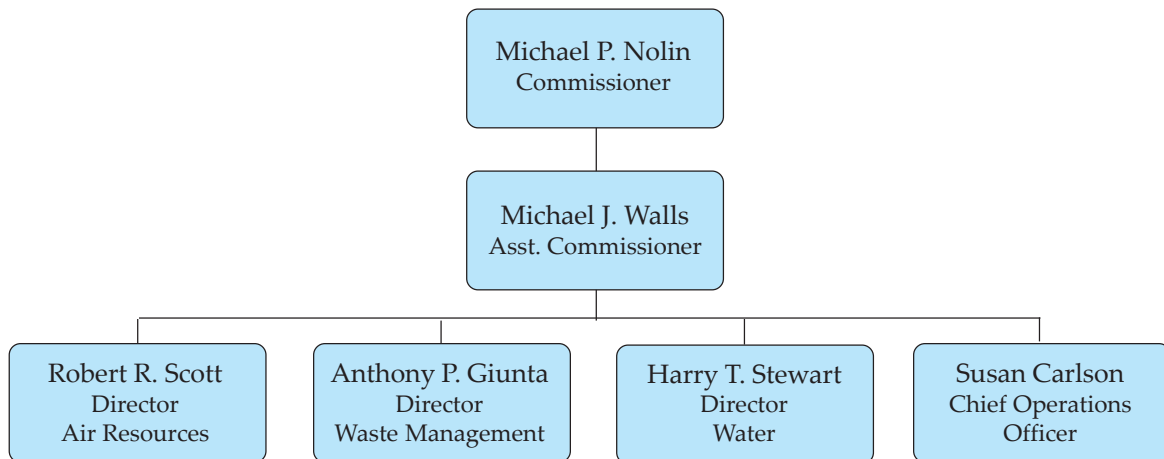
- Adds composting to the list of defined farm activities and designates compost as a farm product.
- Specifies pesticides for inclusion in state management plans to protect groundwater from pesticide contamination.



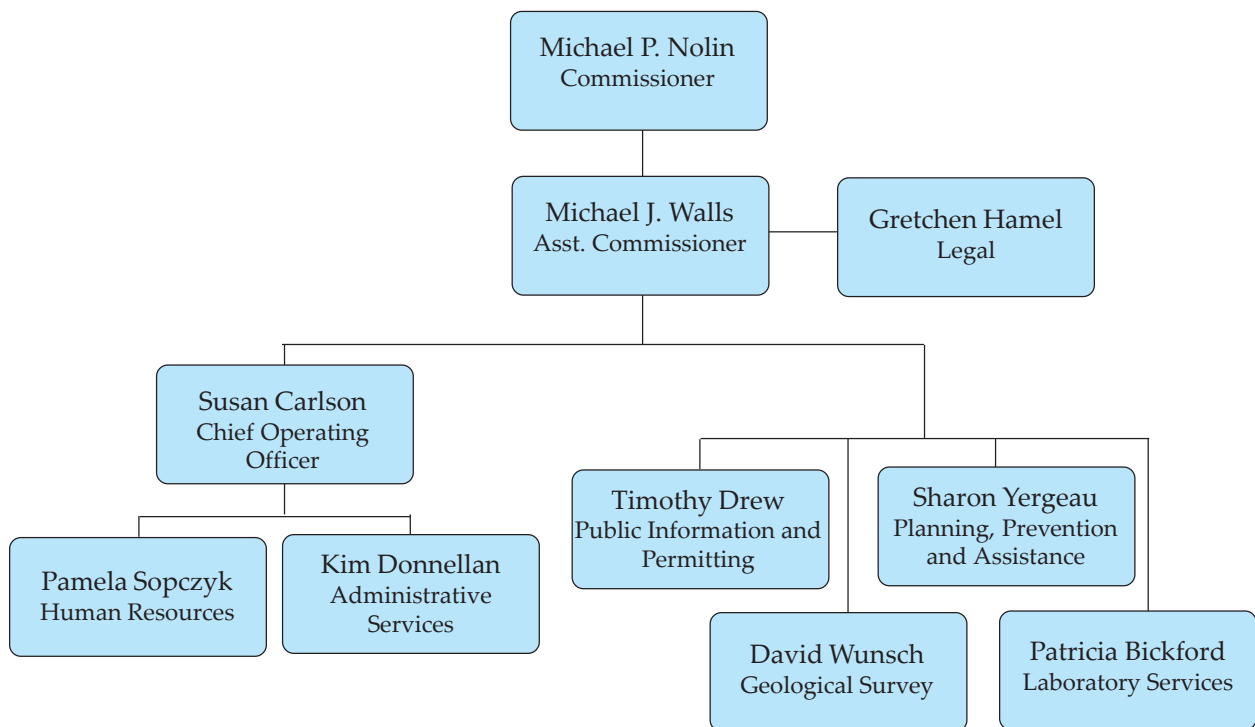
Organizational Charts

N.H. Department of Environmental Services

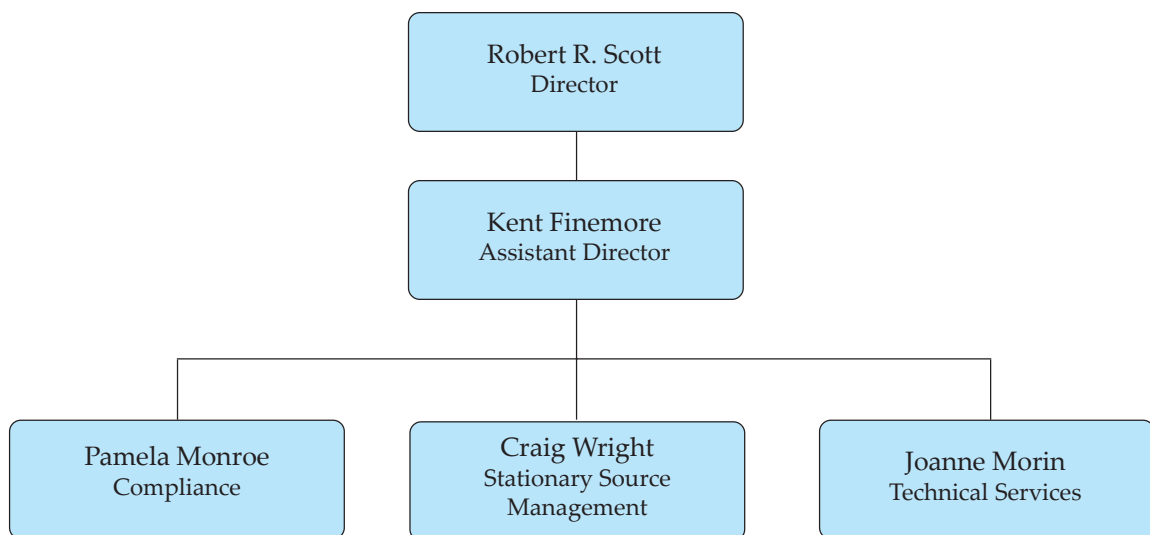
June 30, 2006



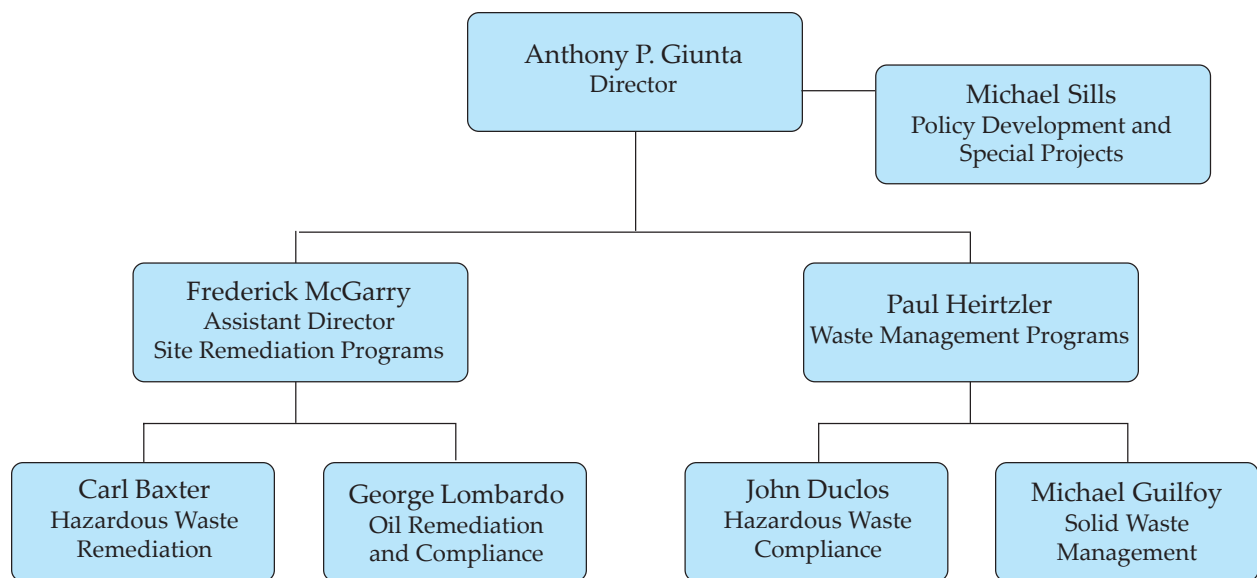
**N.H. Department of Environmental Services
Office of the Commissioner
June 30, 2006**



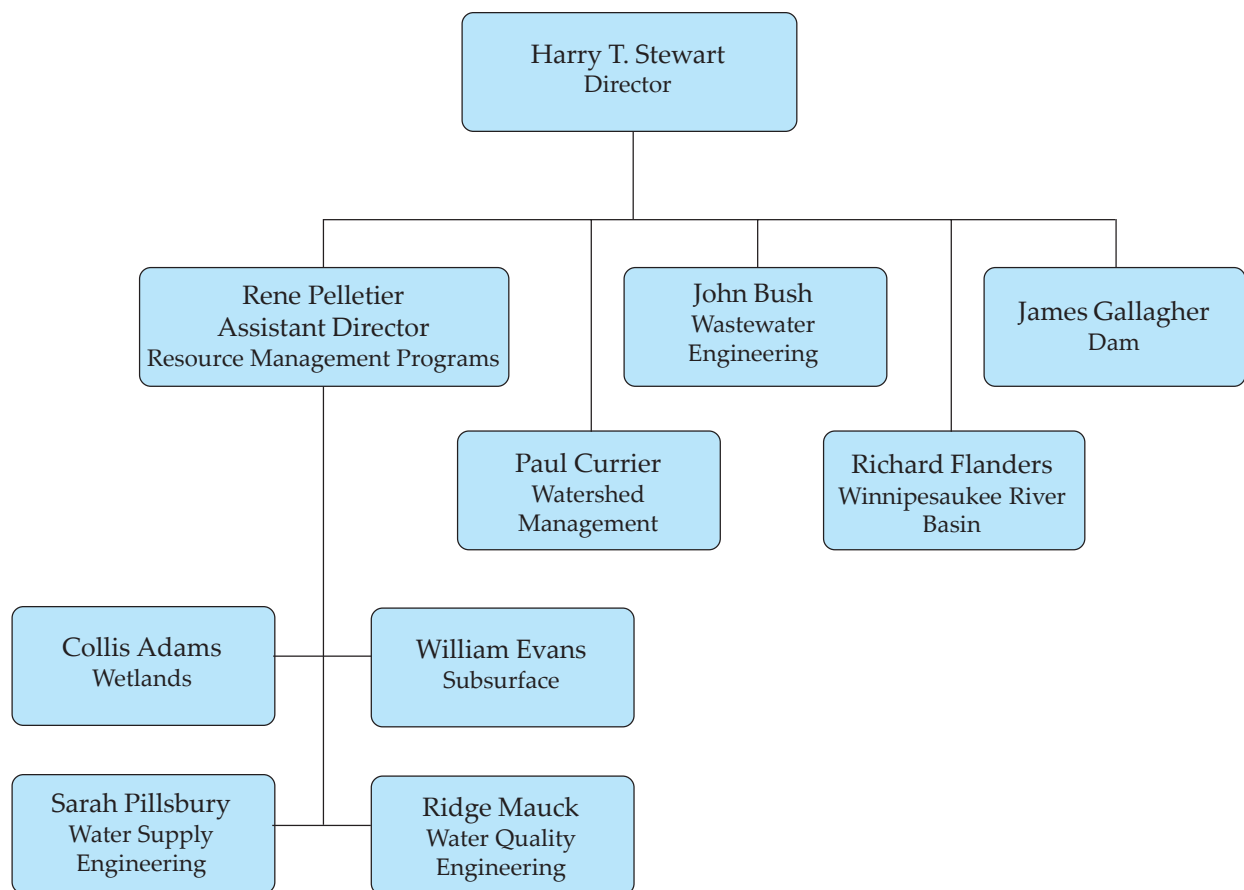
N.H. Department of Environmental Services
Air Resources Division
June 30, 2006



**N.H. Department of Environmental Services
Waste Management Division
June 30, 2006**



N.H. Department of Environmental Services
Water Division
June 30, 2006





Receipts and Expenditures for Fiscal Year 2006

Income and General Fund Appropriations

General Fund Appropriations	\$29,104,218
Federal Income	30,626,341
Fees and Registrations	31,774,272
State Revolving Fund Loan Repayments	38,954,481
Other Agency Income	8,024,762
Unrestricted Income	<u>3,466,342</u>
	<u>\$141,950,416</u>

Expenditures

Salaries and Benefits		\$32,650,327
Salaries	\$22,274,275	
Overtime	308,702	
Benefits	10,067,350	
State Revolving Fund Loans		\$21,921,709
Oil Fund Board Disbursements		16,972,771
State Aid Grants		16,374,131
Disbursements to State Agencies		6,657,209
OIT	2,326,316	
General Services	1,658,776	
Administrative Services	1,060,657	
Attorney General	407,255	
Telecommunications	261,550	
Safety	250,871	
Mail Room	128,662	
Graphic Services	100,485	
Transportation	103,409	
All others (under \$100,000)	359,228	
Current Expenses		3,183,084
Hazardous Waste Cleanup		1,147,458
Other Expenditures		1,746,018
Debt Service		886,786
Equipment		863,159
Travel		<u>510,605</u>
		<u>\$102,913,256</u>

Disbursements to Cities and Towns

State Revolving Fund Loans		\$21,921,709
Clean Water	\$10,597,219	
Drinking Water	11,268,138	
Brownfields	56,352	
State Aid Grants		15,955,991
Landfills	2,067,751	
Water Filtration	1,484,583	
Water Supply Land	577,301	
Waste Water	11,826,356	
Other State Aid		418,140
Aquatic Weed Grants	258,191	
Household Hazardous Waste Grants	140,974	
Used Oil Grants	18,975	
Total		\$38,295,839

DES Personnel Data

Current Number of Employees	FY 2005	FY 2006
Unclassified	8	8
Classified	455	469
Temporary	<u>34</u>	<u>1</u>
Total	497	478

DES Physical Plant & Property Appraisal

	FY 2005	FY 2006
Equipment	\$10,925,936	\$11,226,715
Motor Vehicles	2,363,173	2,416,949
Dams and Land	57, 641,759	57,612,474
Buildings	<u>32,548,992</u>	<u>32,548,992</u>
Total	\$103,479,860	\$103,805,130

